In discussing Hadley v. Baxendale, the author twice quotes from Sedgwick on Damages § 871: "The only meaning of the rule with regard to the contemplation of parties is that in contract a particular species of proof as to special consequences is often available, which is not so in tort." Apparently then a greater measure of recovery is permitted in contract than in tort. If, for example, the shaft shipped in that case had been stolen, the thief would not have been liable for damages due to the stoppage of the mill, but the carrier would have been responsible in case of notice that loss of profits would result from delay. It seems doubtful whether any such restriction should be placed on recovery in tort.

The notes contain references to the Century Digest and to the Key-Numbers of the Decennial Digest greatly enhancing the value of the book as a means of finding the law as does also the citation of the several Reports where cases are found and the printing in capitals of such leading cases as appear in the author's collection of cases on Damages. In notes thus laboriously prepared it is disappointing that the cases cited, a large number of new cases appearing in this edition, are not arranged in accordance with the alphabetical order of the several jurisdictions.

Alfred Hayes.

A TREATISE ON THE LAW OF STREET RAILWAYS. By HENRY J. BOOTH. Second Edition by ISAAC C. SUTTON and PAUL H. DENNISTON. Philadelphia: T. & J. W. JOHNSON COMPANY. 1912. pp. cxi, 922.

Although many of the topics treated in this work may be found discussed in works on public service companies, carriers, constitutional law, municipal corporations, private corporations, and the like, yet in view of the mileage and immense value of street railways in our day, the labor of assembling and discussing in a separate work the statutes and cases dealing with such enterprises is probably jusified. Certainly if the publication in 1892 of the first edition of Booth on Street Railways was called for, and if the work has since its publication commended itself to the legal profession, it is high time for the appearance of a second edition.

The work of revision seems to have been carried out with thoroughness, besides which a considerable amount of new matter has been introduced into the work in its present form. An entirely new chapter on "Interurban Railways" has been added at the end of the second edition, while the first and sixth chapters, dealing respectively with "The Right to Construct and Operate Street Railways," and "Electric Street Railways," have been largely rewritten. The book deals at length with the rights and duties existing between street railways on the one hand, and abutting landowners, members of the public generally, and passengers on the other hand. Questions with regard to regulation by statute and ordinance are also fully considered. The new edition of this work should prove very useful to all those having problems to solve involving the rights and duties of street railways.

Charles K. Burdick.

PRINCIPLES OF THE CRIMINAL LAW. By SEYMOUR F. HARRIS, B. C. L., M. A. Twelfth edition, by CHARLES L. ATTENBOROUGH, Barrister at Law. London: STEVENS AND HAYNES. 1912. pp. xi, 613.

This book, now in its twelfth edition, is a concise statement of the criminal law and procedure of England. The book has been through

several editions, and was published in an Italian translation in Verona in 1898. The last seven editions have been prepared by the present editor, Mr. Attenborough. This work expounds the common law of crimes so far as that law is still in force in England, or so far as such exposition is necessary to understand the statutory changes that have been made therein. The modern law on any given point is generally set forth directly after the statement of the common law, which enables the reader to see, in immediate sequence, what the law has been and what it now is. This arrangement of the book brings out in a striking manner the great relative importance of statutes in the existing English criminal law. Nearly eleven hundred different sections of statutes are referred to in this work, while only nine hundred cases are cited.

Amid these numerous criminal statutes, a few curiosities still survive. Thus it is strange that apostasy, that is, the denial by one educated in the Christian religion that this religion is true, or the denial by such a person that the Holy Scripture is of divine origin, is still a crime in England under the statute 9 & 10 Wm. III. c. 32. In commenting on this crime, there is an apologetic footnote, which says that "It is believed that there has been no prosecution under this statute." (page 61). Again, nonconformity with the established church is still a crime, "though never practically made the subject of prosecution". (page 64). In addition, "It is still the law (10 Geo. IV. c. 7, 28-38) that a person who, being a Jesuit, or member of any other religious order or society of the Church of Rome, comes within the realm without a license of the Secretary of State, is guilty of a misdemeanor, and is punishable by banishment for life. A Jesuit or member of such an order or society who admits any person to be a member thereof may be punished by fine and imprisonment, and the person so admitted must be banished for life." (10 Geo. IV. c. 7, 36) (pages 64-65). In 1902, in the case of R. v. Kennedy, 86 L. T. 753, an attempt was made to enforce this last statute, but the committing magistrate refused to act, saying that the law was a dead letter. It is strange that these enactments, which are the product of a bygone religious bigotry, should be permitted to remain on the statute books, even as purely formal law.

The book divides crimes in two classes. First, "offences of a public nature"; second, "offences of a private nature or against individuals". This classification is a convenient one from a practical standpoint, but the phraseology in which it is expressed is not a happy one. The whole theory of the criminal law is that every crime is a public wrong; whereas the words "offences of a private nature" might suggest to an ordinary reader that a crime may be a purely private wrong. The expressions "offences against the government", and "offences against individuals", which are used in May's Criminal Law, seem preferable, in that they show against whom the criminal act is directed, without suggesting an erroneous definition of crime.

In the chapter on larceny, the author lays down the usual rule that larceny requires a "taking" possession of another's goods with intent to steal. In dealing with the cases of larceny by trick, where possession is obtained not by force but by fraud, it is stated that in such cases there is a "constructive taking". Would it not be sounder to admit that larceny by trick requires no "taking", and that the statements of the courts that larceny *always* requires a taking, and that

there can *never* be larceny without a trespass are, as applied to the foregoing class of cases, merely the expression of a venerable fiction? It certainly does not tend toward clear thinking to call a voluntary *giving* of possession, induced by fraud, a "constructive" *unpermitted* taking.

The most admirable qualities of this work, are its clearness, compactness and its general accuracy. The book shows on every page that it has been the result of much careful thought. The account of the English criminal procedure is a most excellent piece of work. The chapters on witnesses and evidence are particularly to be commended. Indeed, the amount of legal information contained in the book is extraordinary, and it must be invaluable as a handbook for use in an English lawyer's office.

While the terseness of the style is generally a merit, it is sometimes obtained through a merely partial exposition of the law. For example, we find this statement on page 148: "It may be stated at the outset that if the mere fact of the homicide is proved, the law presumes the malice which is necessary to make it amount to murder, and it therefore lies on the accused to show that the killing was justifiable or excusable." If this language means that the burden of going forward with evidence of justification is on the accused, it is entirely correct; but it is entirely consistent with the idea that the effect of this presumption is to put upon the accused the burden of establishing his justification by a preponderance of the evidence, a doctrine which, on principle, is unsound. The author's statement leaves us in doubt as to which of these propositions he believes to be law. Moreover, the treatment of the burden of proof (page 428) and of presumptions (page 442) does not make the above matter any clearer, being characterized by a brevity which slights the subject.

Neverthless, these are minor faults in a book which has the supreme merit of usefulness; of setting forth in a short space, without waste words, a large body of accurately stated law. For the practicing lawyer as a reference-book in his office, or for the student who is seeking merely for legal information, the book is all that can be desired; but for the student who is striving for a deep and thorough understanding of the law, the book can best be used as a review after the study of criminal cases, or as a guide for further study. Indeed, in reading this admirable treatise, one is impressed by the fact that the books which help us to get a real insight into the genuine meaning of the law are but few; such books demand a higher quality than even brevity and accuracy, namely a power of original thought which, by bringing out differences and distinctions, reveals the continuous current of principle which runs through a long series of decisions, and thus gives one a deeper insight into the fundamental elements of the law. It is certain that Mr. Harris's work is a model of brevity and in general of accuracy, but the process of intellectual compression, which is inevitable in so brief a manual or so great a subject, leaves the reader with a feeling that he has come in contact only with the dry bones of the law; such a lawbook makes one realize more than ever that law is alive only when studied through the cases which have established its principles, and that it can really be learned and known only through the decisions themselves that make the law.

Ralph W. Gifford.